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CLEARINGHOUSE RULE 96−143

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. The treatment clauses of the various SECTIONS of the rule need to be reviewed for more substantial compliance with the drafting format of the Legislative Reference Bureau. For example, the treatment clause in SECTION 2 should be revised to read:

> SECTION 2. SEC 2.01 (6) (intro.) is renumbered SEC 2.01 (6) and amended to read:
>
> SECTION 3. SEC 2.01 (6) (a) to (h) are repealed.

Although somewhat complicated, the treatment clauses in SECTIONS 7, 8 and 9 should be revised to read as follows:

> SECTION ___. SEC 2.027 (intro.) and (1) (intro.) and (a) are renumbered SEC 2.027 (intro.) and 1. (intro.) and (a).
>
> SECTION ___. SEC 2.027 (1) (b) is repealed.
>
> SECTION ___. SEC 2.027 (1) (c) and (2) to (8) are renumbered SEC 2.028 (1) (b) and (2) to (8).
>
> SECTION ___. SEC 2.028 is renumbered SEC 2.027, and SEC 2.027 (1) (c), as renumbered, is amended to read:

Again, the entire rule should be reviewed for these structural difficulties and the Clearinghouse should be consulted if assistance is necessary. [See also s. 1.04, Manual.]

b. In s. SEC 2.01 (6), the word "employee" should be replaced by the word "employe." This will make the rule language consistent with other provisions in ch. SEC 2 and in the statutes. Also, the notation "s." should precede all cross-references within the Administrative Code. The entire rule should be reviewed for this problem.

c. In s. SEC 3.03 (4), the names of the policies or guidelines should not be capitalized.

d. In SECTIONS 24 and 29, since the introductory clauses refer to "electronic solicitation" as well as telephone solicitation, pars. (b), (c) and (d) should also refer to electronic solicitation. For example, in par. (b), "Telephoning or electronically soliciting . . . ." Also, in the analysis to SECTION 24, the notation "sub." should precede the reference to "(3) (a) to (e)." Finally, in the last paragraph of the analysis, the notation "paras." should be replaced by the notation "pars."

e. In s. SEC 5.05 (11) (c), last line, insert "to be" after "presumed." In par. (d) 1., substitute "ch. 551, Stats." for "thereunder." In par. (d) 2., put commas around "prior to use." In par. (d) 3., substitute "that ensures" for "to ensure," insert "ch. 551, Stats.," after "order" and substitute "precludes" for "will preclude."

f. In the analysis to the repeal of s. SEC 9.01 (1) (a) 4., the phrase "amendment to" should be replaced by the phrase "repeal of."

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Section SEC 4.06 (1) (c) 2. lists standards to be used in the determination of investors' suitability for the purpose of making purchase recommendations to a customer regarding direct participation program securities. However, the introduction to this list states that the standards do not preclude the use of any other information to establish suitability. Does this mean that a customer who meets either of the standards contained in this provision may nevertheless be determined as someone lacking suitability to participate in the investment? What other information may be used to determine suitability? Can an appropriate statutory or Administrative Code cross-reference be provided? If other suitability standards exist, they should be promulgated as administrative rules.

b. Section SEC 5.05 (11) (c) provides that an investment advisory providing services on the premises of a financial institution not licensed as an investment advisor must disclose the identity of the licensed investment advisor in various promotional materials. These materials may not display the financial institution's name or logo type in a manner that would mislead customers as to the financial institution's role in connection with the investment advisory services being offered by the investment advisor. Is this provision simply meant to be a truth-in-advertising statement or does it imply that there is an appropriate, and inappropriate, role that a financial institution may play in the provision of the services of a licensed investment advisor on the premises of the financial institution? Is the delineation of the financial institution's role meant to be expressed in s. SEC 5.05 (11) (a) and (e)?